

State of Washington REPORT OF EXAMINATION FOR WATER RIGHT APPLICATION

PRIORITY DATE
7/8/2003

WATER RIGHT NUMBER
S3-30398

MAILING ADDRESS
Kay Kenyon and Danny Munds
1399 Clugston-Onion Creek Road
Colville WA 99114-9648

SITE ADDRESS (IF DIFFERENT)

Quantity Authorized for Diversion

DIVERSION RATE	UNITS	ANNUAL QUANTITY (AF/YR)
0.21	CFS	21

Purpose

PURPOSE	DIVERSION RATE		UNITS	ANNUAL QUANTITY (AF/YR)		PERIOD OF USE (mm/dd)
	ADDITIVE	NON-ADDITIVE		ADDITIVE	NON-ADDITIVE	
irrigation of 14 acres and Stockwater	0.21		CFS	21		05/01 - 9/30

Source Location

COUNTY	WATERBODY	TRIBUTARY TO	WATER RESOURCE INVENTORY AREA
STEVENS	Eureka Surprise Mine		61-UPPER LAKE ROOSEVELT

SOURCE FACILITY/DEVICE	PARCEL	WELL TAG	TWP	RNG	SEC	QQ Q	LATITUDE	LONGITUDE
Eureka Surprise Mine	8000256		37 N.	39 E.	03	SW¼SE¼	48.732294	117.8767639
								Datum: NAD83/WGS84

Place of Use (See Attached Map)

PARCELS (NOT LISTED FOR SERVICE AREAS)

2326625

LEGAL DESCRIPTION OF AUTHORIZED PLACE OF USE

That portion of the SW¼SE¼ of Section 10, T 37 N., R39 E.W.M. lying west of County Road 2580 (Clugston Onion Creek Road) being approximately 15.15 acres

REPORT OF EXAMINATION

Proposed Works

A one foot dam across the mouth of the mine, diversion through a gravity feed pipe to the property

Development Schedule

BEGIN PROJECT	COMPLETE PROJECT	PUT WATER TO FULL USE
March 1 2018	March 1, 2019	January 1, 2020

Measurement of Water Use

How often must water use be measured?	Weekly
How often must water use data be reported to Ecology?	Annually during the development of the permit
What volume should be reported?	Weekly readings and Total Annual Volume
What rate should be reported?	Annual Peak Rate of Withdrawal (cfs)

Provisions

Measurements, Monitoring, Metering and Reporting

An approved measuring device shall be installed and maintained for each of the sources identified by this water right in accordance with the rule "Requirements for Measuring and Reporting Water Use", WAC 173-173.

WAC 173-173 describes the requirements for data accuracy, device installation and operation, and information reporting. It also allows a water user to petition the Department of Ecology for modifications to some of the requirements.

Easement and Right-of-Way

The water source and/or water transmission facilities are not wholly located upon land owned by the applicant. Issuance of a water right authorization by this department does not convey a right of access, construction or excavation or other right to use, land which the applicant does not legally possess. Obtaining such a right is a private matter between applicant and owner of that land(s).

Water Use Efficiency

The water right holder is required to maintain efficient water delivery systems and use of up-to-date water conservation practices consistent with RCW 90.03.005.

Proof of Appropriation

The water right holder shall file the notice of Proof of Appropriation of water (under which the certificate of water right is issued) when the permanent distribution system has been constructed and the quantity of water required by the project has been put to full beneficial use. The certificate will reflect the extent of the project perfected within the limitations of the permit. Elements of a proof inspection may include, as appropriate, contracting with a Certified Water Right Examiner (CWRE) to confirm the source(s), system instantaneous capacity, beneficial use(s), annual quantity, place of use, and satisfaction of provisions.

Schedule and Inspections

Department of Ecology personnel, upon presentation of proper credentials, shall have access at reasonable times, to the project location, and to inspect at reasonable times, records of water use, wells, diversions, measuring devices and associated distribution systems for compliance with water law.

Family Farm

That portion of this authorization relating to agricultural irrigation is classified as a Family Farm Permit in accordance with Chapter 90.66 RCW. This means the land being irrigated under this authorization shall comply with the following definition: Family Farm - a geographic area including not more than 6,000 acres of irrigated agricultural lands, whether contiguous or noncontiguous, the controlling interest in which is held by a person having a controlling interest in no more than 6,000 acres of irrigated agricultural lands in the state of Washington which are irrigated under water rights acquired after December 8, 1977. Furthermore, the land being irrigated under this authorization must continue to conform to the definition of a family farm.

Findings of Facts

Upon reviewing the investigator's report, I find all facts, relevant and material to the subject application, have been thoroughly investigated. Furthermore, I concur with the investigator that water is available from the source in question; that there will be no impairment of existing rights; that the purpose(s) of use are beneficial; and that there will be no detriment to the public interest.

Therefore, I ORDER approval of Application No. S3-30398, subject to existing rights and the provisions specified above.

Your Right To Appeal

You have a right to appeal this Order to the Pollution Control Hearings Board (PCHB) within 30 days of the date of receipt of this Order. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal you must do the following within 30 days of the date of receipt of the Order.

File your appeal and a copy of this Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.

- Serve a copy of your appeal and this Order on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.
- You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503 Pollution Control Hearings Board 1111 Israel Road SW Ste 301 Tumwater, WA 98501	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608 Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903

Signed at Spokane, Washington, this 13th day of May, 2015.



Keith L. Stoffel, Section Manager

For additional information visit the Environmental Hearings Office Website: <http://www.eho.wa.gov>. To find laws and agency rules visit the Washington State Legislature Website: <http://www1.leg.wa.gov/CodeReviser>.

BACKGROUND

This report serves as the written findings of fact concerning Water Right Application Number S3-30398.

Public Notice

RCW 90.03.280 requires that notice of a water right application be published once a week, for two consecutive weeks, in a newspaper of general circulation in the county or counties where the water is to be stored, diverted and used. Notice of this application was published in the Statesman Examiner on November 21 and 28, 2012 and no protests were received

Consultation with the Department of Fish and Wildlife

RCW 90.03.280 requires the Department to send notice to the Department of Fish and Wildlife of applications to divert, withdraw or store water. The Department was notified of the application on September 18, 2003. No comments were received. The Department assisted in the field exam on April 15, 2015. The Department does not object to the application.

State Environmental Policy Act (SEPA)

A water right application is subject to a SEPA threshold determination (i.e., an evaluation whether there are likely to be significant adverse environmental impacts) if any one of the following conditions are met.

- (a) It is a surface water right application for more than 1 cubic foot per second, unless that project is for agricultural irrigation, in which case the threshold is increased to 50 cubic feet per second, so long as that irrigation project will not receive public subsidies;
- (b) It is a groundwater right application for more than 2,250 gallons per minute;
- (c) It is an application that, in combination with other water right applications for the same project, collectively exceed the amounts above;
- (d) It is a part of a larger proposal that is subject to SEPA for other reasons (e.g., the need to obtain other permits that are not exempt from SEPA);
- (e) It is part of a series of exempt actions that, together, trigger the need to do a threshold determination, as defined under WAC 197-11-305.

Because this application does not meet any of these conditions, it is categorically exempt from SEPA and a threshold determination is not required.

INVESTIGATION

A site visit was conducted on April 21, 2015 for this application. The writer has been on site numerous times since 2001.

The applicant's property was once irrigated. Originally Surface Water Certificate S3-01565 with a priority date of 1980 issued to Thomas Bolt for the diversion of 0.187 cfs, 50 acre-feet per year for irrigation of 20 acres and 0.02 cfs for fish propagation from the Eureka Surprise mine. The property was subdivided into three parcels and sold to three separate land owners. The applicant acquired one of the parcels.

Water was historically diverted from the mine opening through a six inch water line that ran across property owned by the BLM and the county right of way. The water line passed through two parcels and ended on the third parcel. The first parcel changed ownership and the main irrigation line was severed in 1994 and the landowner on the first parcel would not allow water to be used on the remaining two parcels. The water historically used to irrigate the second and third parcels was diverted into the pond on parcel one. The pond was not lined and required a significant amount of water to keep it maintained at full pool level. This parcel was then sold again in 2001 to a new landowner who continued the practice of the previous land owner not allowing the water to the second two parcels.

The land owner of parcel one and parcel two (applicant) proceeded to Stevens County Superior Court to resolve the dispute over the water rights and pipeline. In 2003, the court issued a decision granting all of the water and pipeline to the owner of parcel one. (A copy of the Stevens County Superior Court decision is available in the file). An application for change was filed to correct the place of use and purpose of use consistent with the Superior Court decision.

The application for change was granted in 2009. The owner of parcel one later relinquished the majority of the right due to his failure to line the pond and a Superseding Certificate No. S3-01565 issued subject to the change authorization in December of 2009. Superseding Certificate S3-01565 was reduced and issued for 0.063 cfs, 16.25 acre-feet for irrigation of 6.5 acres. (More detail is available in the file for Certificate S3-01565).

Since the original right was severed from the applicant's property, she reapplied to obtain a right separate from that described above. The Eureka Surprise mine shaft discharge runs year round. A small concrete dam was constructed across the mouth of the mine and a contracted rectangular weir was installed. The weir is filled with boards to raise the level of the water in the shaft to fill up the pipeline. When not in use the boards were removed and the water flows out of the mine shaft. The dam has since been reconstructed since 2005 and water flows around the pipeline diversion out the mine shaft. The flow of the water continues approximately 100 yards across the Onion Creek road and dissipates into the ground approximately 1000 feet from Bruce Creek. There is no established channel beyond this point. This water does not directly contribute to Bruce Creek.

The existing pipeline runs from the mine to the edge of the applicant's property. If the applicant can obtain a use agreement with the neighbors, this could be used for delivery of water to the property. If not, a new pipeline would need to be constructed from the mine to the applicant's property. The applicant is advised that the issuance of a permit does not grant access or easement across lands of others. This would be a matter between the applicant and the owner(s) of the lands.

Proposed Development:

The applicant plans on developing a gravity irrigation system to the property and install a pump and storage on the property to irrigate approximately 14 acres. Storage may be required to establish times of operation due to the flow of the mine when both systems are operating. There may be times the mine does not produce sufficient water to supply the requested quantities.

Beneficial Use

Irrigation of lawn/garden, pasture and stockwater are beneficial uses.

A review of the Washington State Irrigation Guide establishes crop requirements in the Northport area (El. 1300 feet) for pasture/turf at 2.25 acre-feet. The applicant is located 15 miles south of Northport at an elevation of 3000 feet. The annual crop requirement will be significantly less than at Northport. Crop estimates will probably range from 1.25- 1.75 acre-feet per acre. With shorter irrigation seasons at this elevation, 1.5 acre-feet per acre should be adequate.

Ninety five gallons per minute (0.21 cfs), 21 acre-feet per year should be sufficient for agricultural irrigation of 14 acres (This includes the small lawn and garden area and stockwater).

The application requested 0.21 cfs (95 gallons per minute). The source is capable of producing sufficient water to supply this request most of the time and the existing water right. The mine is likely to produce this volume of water most of the season. Any new diversion structure in the mine shaft is required to be below the existing structure. If agreements can be made the existing diversion and pipeline can be used for this authorization.

At the time of the field exam the mine shaft overflow at the mouth of the mine was approximately 0.06 cfs (30 gallons per minute). The existing pipeline was in operation although they were not irrigating on the property. The pond was part full and it appears they may have continued to fill the pond with this source.

Water Availability

An analysis of water availability must take into account not only the physical limitations on the source of supply, but the legal availability as well. There may be sufficient water for the irrigation of 14 acres during most of the year. Storage may be required to satisfy the irrigation requirement at full build-out.

Existing Water Right Documents

A review of department records was conducted for the applicant's property.

No other water right documents are appurtenant to the applicant's property.

A domestic well was constructed in 1999. The well was drilled to a depth of 170 feet and produced no water. The well was deepened in August of 2000 to a depth of 400 feet and produced approximately three gallons per minute.

Impairment Considerations

A review of department records was conducted for existing water rights, permits, and claims within the vicinity of the proposed diversion.

No water right documents are found for the mine other than those described above.

No other applications are on file from the mine.

Public Interest Considerations

Chapter 90.54 RCW provides that water allocation shall secure maximum net benefits to the people of the state, while also requiring that perennial rivers of the state shall be retained with base flows necessary to provide for the preservation of fish and other environmental values.

The outflow of the mine shaft does not directly contribute to the base flows of Bruce Creek.

The approval of this application for this quantity and use will not be detrimental to the public interest.

There has been no public expression of protest or concern regarding the subject proposal, and no findings through this investigation indicate that there would be any detrimental impact to the public welfare through issuance of the proposed appropriation.

Conclusions

Under Chapter 90.03.290 RCW, an application for permit may be approved if water is available for appropriation, and the proposed use would be a beneficial use, would not impair existing water rights, and would not be detrimental to the public welfare.

It is the conclusion of this examiner that surface water is available for 14 acres and stockwater. This appropriation is considered a beneficial use and will not impair existing water rights or be detrimental to the public welfare.

RECOMMENDATIONS

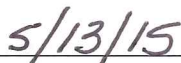
Based on the above investigation and conclusions, I recommend that this request for a water right be approved in the amounts and within the limitations listed below and subject to the provisions listed above.

Purpose of Use and Authorized Quantities

The amount of water recommended is a maximum limit and the water user may only use that amount of water within the specified limit that is reasonable and beneficial:

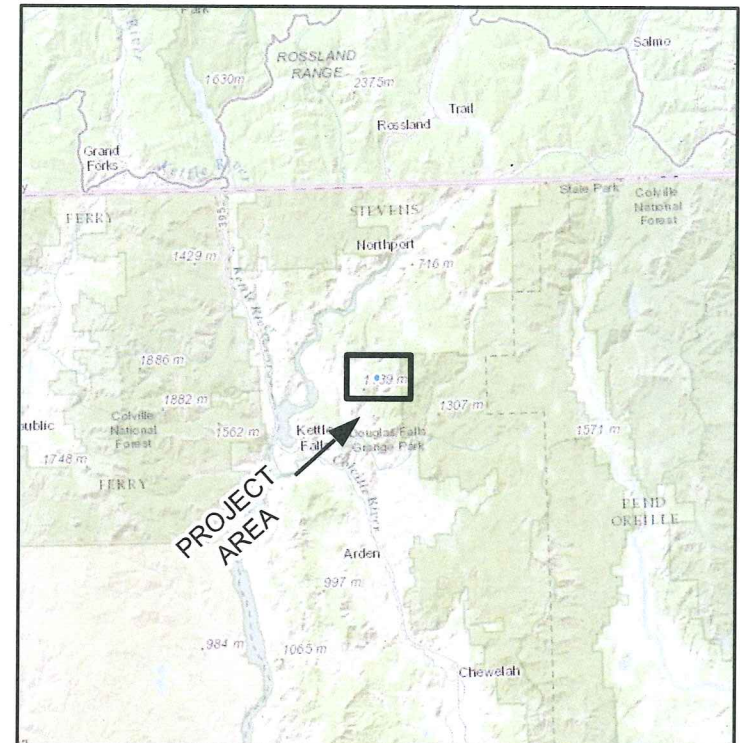
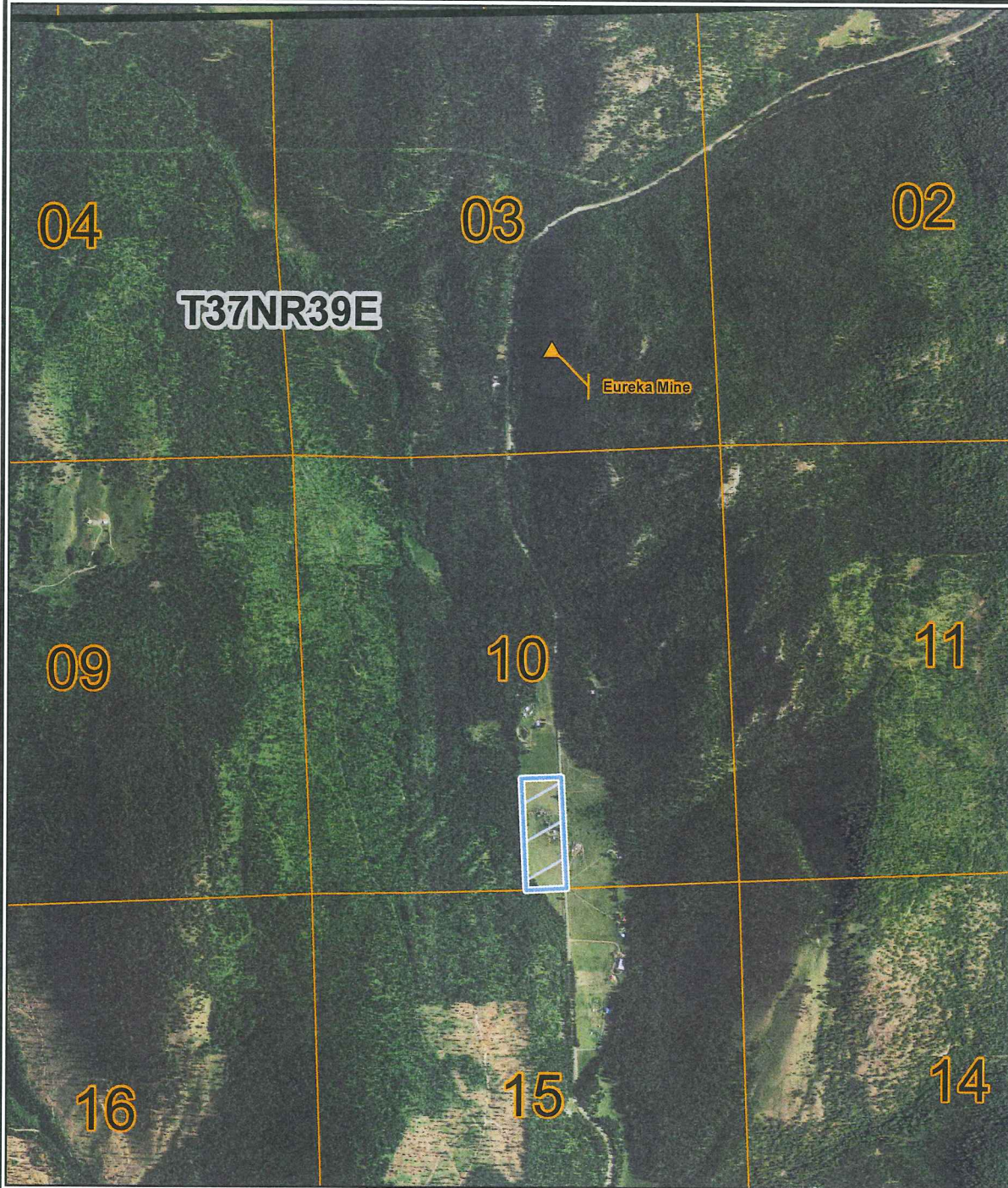
0.21 cubic feet per second
21 acre-feet per year


Kevin Brown, Report Writer


Date

If you need this publication in an alternate format, please call the Water Resources Program at (360) 407-6600. Persons with hearing loss can call 711 for Washington Relay Service. Persons with a speech disability can call 877-833-6341.

Kay Kenyon & Danny Munds
S3-30398
T37N/R39E



Basemap - (ESRI US Topographic Maps)

Legend



Authorized Place of Use



Townships



Sections

▲ Authorized Point of Diversion

(Source locations may vary in their accuracy and precision as stated within the body of the report.)

0 660 1,320 2,640 3,960 5,280 Feet
Basemap - (NAIP 2013 1m color)

Map Date: 5/1/2015



Comment:

Place of use and source locations are as defined within the Report of Examination cover sheet for the document identified in the header above.